

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No 73 of 1996

in

COMPANY PETITION No 1 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT ENGINEERING & GENERAL KAMDAR UNION

Versus

OFFICIAL LIQUIDATOR

Appearance:

MR RK MISHRA for Petitioner

OFFICIAL LIQUIDATOR for Respondent No. 1

MR PRASHANT G DESAI for Respondent No. 2, 3

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 05/12/96

ORAL JUDGEMENT

Rule. The Official Liquidator waives service of
Rule. Learned advocate Mr PG Desai waives service of
Rule for respondents No. 2 and 3.

This Judge's summons had been taken out by Gujarat Engineering & General Kamdar Union for certain members of watch and ward staff of Universal Dyestuff Industries (in Liquidation) which is referred to hereinafter as "the Company", with a prayer that persons named in Annexure "A" to the application be paid amount of wages, etc. which has been paid to similarly situated workmen.

Learned advocate Mr RK Mishra appearing for the applicant has submitted that the workmen named in Annexure "A" had been working with the Company and they are entitled to wages for the services rendered by them to the Company. It has been submitted by him that in the past some workmen of the Company were paid wages in pursuance of an order dated 21st April, 1994 by this Court in Company Application No. 180/91 in Company Petition No. 1/86. Through oversight names of the workmen referred to in Annexure "A" to this application were not included in the list of workmen who were paid their wages in pursuance of the above referred order dated 21.4.1994 and, therefore, it has been prayed that the workmen named in Annexure "A" be also paid wages on the basis on which similarly situated workmen have been paid their wages. It is an admitted fact that workmen similarly situated have been paid wages for the period during which they had rendered their services and they have also been paid amount in lieu of unavailed privilege leave. The Official Liquidator has calculated the amount payable to the said workmen and has given details of the amount payable to them in his report. As per the said report, wages payable to the concerned workmen comes to Rs.14,35,812-50 whereas amount in lieu of unavailed privilege leave comes to Rs.40,681/-. Under these two heads, other workmen have already been paid the entire amount and, therefore, it would be just and proper if the said amount is paid to them.

Learned advocate Mr PG Desai appearing for respondent-Dena Bank is unable to controvert the above referred factual position. He has submitted that the bank should be paid an equal sum of amount which might be paid to the workmen.

In view of the above referred circumstances, it is directed that the amount referred to hereinabove shall be paid to the workmen referred to in Annexure "A" to the application. Needless to say that other claims made in the application are not entertained at this stage. In the circumstances, it would be open to the concerned

workmen to approach this Court as and when complete amount payable to all workmen is determined.

The Official Liquidator is also directed to pay an equal sum of the amount to Dena Bank which is the only secured creditor.

If the Official Liquidator is not having sufficient cash or bank balance, he is permitted to encash Fixed Deposit Receipts. He is also permitted to operate the dividend account which has already been opened. If the said dividend account has been closed, the Official Liquidator is permitted to open another dividend account so that the amount can be paid to the concerned workmen. He is also permitted to incur necessary expenditure for the purpose of printing receipts, etc.

It has been submitted by the Official Liquidator that many of the workmen referred to in the application are not in service at present. In the circumstances, it is directed that the amount should be paid only upon proper identification by the applicant-Union or upon production of some evidence which should be to the satisfaction of the Official Liquidator.

This application is thus granted to the above extent. Rule is made absolute.

sundar./